IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 03.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.396 of 2006

N.Selvi ... Petitioner

Vs.

1. The State rep.by
   The Inspector of Police,
   C.1, Madippakkam Police station,
   Chennai 600 117.

2. The Commissioner of Police,
   Greater Chennai,
   Egmore, Chennai 600 008.

3. The Secretary to Government,
   Prohibition and Excise Dept.,
   Secretariat, Chennai-9. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondent to produce the petitioner's husband Thiru Raj @ Nataraj of Elumalai aged 33 now confined at Central Prison, Chennai before this Hon'ble Court and to set the detenu at liberty forthwith by setting aside the detention order vide No.538/2005 dated 7.12.2005 on the file of second respondent.

For Petitioner : Dr.G.Krishnamurthy

For Respondents: Mr.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by V.Dhanapalan, J.)

The petitioner, who is the husband of the detenu by name Nataraj @Raji, who was detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of

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Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 7.12.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 6.1.2006 was received by the Government on 9.1.2006 and remarks were called for on 10.1.2006. Thereafter, the remarks were received by the Government on 13.1.2006 and the File was submitted on 16.1.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same day i.e. on 16.1.2006 and finally, the Minister for Prohibition and Excise passed orders on 17.1.2006. The rejection letter was prepared on 30.1.2006 and the same was sent to the detenu on the same day i.e. on 30.1.2006 and served to him on 31.1.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 17.01.2006, there is no explanation at all for taking time for preparation of rejection letter till 30.01.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

ajr

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,
   Prohibition and Excise Dept.,
   Fort St.George, Chennai-9.

2. The Commissioner of Police,
   Greater Chennai,
   Egmore, Chennai 600 008.

3. The Inspector of Police,
   C.1, Madippakkam Police station,
   Chennai 600 117.

4. The Superintendent,
   Central Prison, Chennai
   (In duplicate for communication to detenu)

5. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St. George, Chennai-9.

6. The Public Prosecutor,
   High Court, Madras.

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dv/13.7.06

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